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7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 TEMCO, LLC, a Delaware limited liability
11 company,

12 Plaintiff,

13 vs.

14 M/V TENG FEI HAI, her engines, tackle,
15 apparel, etc., *in rem*, and COSCO BULK
16 CARRIER CO., LTD., a foreign corporation,
17 *in personam*,

18 Defendants.

19 NO.

20 VERIFIED COMPLAINT IN
21 ADMIRALTY

22 COMES NOW plaintiff, TEMCO, LLC, as and for its Complaint against the M/V
23 TENG FEI HAI, *in rem*, and COSCO BULK CARRIER CO., LTD., *in personam*, and hereby
24 alleges and avers as follows:

25 I.

26 This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal
27 Rules of Civil Procedure. Jurisdiction is based on 28 U.S.C. §1333.

28 VERIFIED COMPLAINT IN ADMIRALTY

29 424363/120409 1559/99980086

- 1 -

30 Betts
31 Patterson
32 Mines
33 One Convention Place
34 Suite 1400
35 701 Pike Street
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37 (206) 292-9988

1 II.

2 At all material times, TEMCO, LLC was and still is a limited liability corporation
3 organized and existing pursuant to the laws of the State of Delaware, and was the owner of an
4 export grain elevator and ship dock at Tacoma, Washington. During the times material to this
5 civil action, TEMCO, LLC's grain elevator and ship dock were operated pursuant to a public
6 tariff identified as Tariff No. 2, effective as of December 1, 2006.
7

8 III.

9 At all material times the M/V TENG FEI HAI was and still is an ocean-going cargo
10 vessel engaged in the common carriage of goods by sea for hire between various foreign and
11 domestic ports, bearing IMO No. 9056935, and is now, or will be during the pendency of this
12 action, within the jurisdiction of this Honorable Court.
13

14 IV.

15 At all material times, COSCO BULK CARRIER CO., LTD. was and still is a
16 corporation or other legal entity organized and existing pursuant to the laws of a foreign
17 country and was the owner and operator of the M/V TENG FEI HAI.
18

V.

20 On or about December 5, 2006, the M/V TENG FEI HAI was alongside TEMCO,
21 LLC's ship dock receiving a cargo of bulk grain. During the vessel's loading operation, the
22 starboard side hatch cover of cargo hold number four rolled off its tracks and was nearly lost
23 overboard.
24
25

1 VI.

2 The failure of the vessel's hatch cover was caused by the unseaworthy condition of the
3 hatch cover and/or its associated components and systems.

4 VII

5 The failure to the vessel's hatch cover proximately caused delays in the loading of the
6 vessel and extra expenses to TEMCO, LLC, including but not limited to liquidated damages
7 under the governing tariff, labor standby charges, temporary repair and survey costs,
8 demurrage, attorney fees and other losses and damages to be shown at the trial of this cause.

9
10 VIII.

11 The aforesaid damages were not caused by any act of, or omission by, TEMCO, LLC or
12 those for whom it may be responsible, but instead were caused solely by the negligence, fault,
13 omissions, breach of duty, contract or tariff of the defendants, and/or by the unseaworthiness of
14 the M/V TENG FEI HAI.

15
16 IX.

17 By reason of the premises, TEMCO, LLC has sustained losses of approximately
18 \$225,000.00.

19
20 X.

21 By reason of the premises, TEMCO has a maritime lien on the vessel.

22
23 XI.

24 All and singular, the matters alleged are true and correct. Plaintiff reserves the right to
25 amend and supplement this complaint as further facts become available.

1 **WHEREFORE**, plaintiff prays for relief against defendants as follows:

2 1) The Clerk of Court issue a warrant for the arrest and/or attachment of the M/V
3 TENG FEI HAI, her engines, tackle, apparel, etc. and that all persons claiming any right, title
4 or interest in said vessel may be summoned to appear and answer under oath, and that said
5 vessel may be condemned and sold to pay the demand as aforesaid, together with interest
6 thereon, costs and attorneys' fees;

7
8 2) Process in due form of law issue against defendant, COSCO BULK CARRIER
9 CO., LTD. citing it to appear and answer this Verified Complaint;

10 3) After due proceedings are concluded, judgment be entered in favor of plaintiff,
11 TEMCO, LLC, and against defendants, the M/V TENG FEI HAI, her engines, tackle, apparel,
12 etc., *in rem*, and COSCO BULK CARRIER CO., LTD., *in personam*, for all sums shown to be
13 due and owing at trial, together with interest and costs.

14
15 4) That plaintiff, TEMCO, LLC, be awarded such other relief as it may be entitled
16 to receive.

1 DATED this 4th day of December, 2009.
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BETTS, PATTERSON & MINES, P.S.

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14 Attorneys for Plaintiff Temco, LLC
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1 **PLEASE WITHHOLD ISSUANCE OF A WARRANT**
2 **FOR THE ARREST OF THE M/V TENG FEI HAI**
3

4 **PLEASE ISSUE SUMMONS TO:**

5
6 COSCO BULK CARRIER CO., LTD.

7 Ocean Plaza, 1, Room 901A

8 Haihe Donglu

9 Hebei Qu

10 Tianjin, 300010

11 CHINA

VERIFICATION

I, Steven W. Block, make this declaration of my own personal knowledge and belief.

1) I am a shareholder of the firm of **BETTS PATTERSON & MINES**, counsel for plaintiff herein

2) I have read the above and foregoing Verified Complaint, know the contents thereof, and believe that the same are true and correct to the best of my knowledge and belief.

3) The sources of my knowledge and the grounds for my belief are various documents furnished and statements made to me by representatives of plaintiff, and that the reason this verification is made by deponent and not by plaintiff is that plaintiff is a corporation, no officer of which is presently within this district, under penalty of perjury under the laws of the State of Washington.

Steven W. Block

Executed this 4 day of December, 2009,
at Seattle, Washington.

**Betts
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